



**THE CLEARING HOUSE**<sup>SM</sup>  
Advancing Payment Solutions Worldwide

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October 18, 2004

Office of the Comptroller  
of the Currency  
Public Information Room  
Mailstop 1-5  
250 E Street, S.W.  
Washington, DC 20219  
Attention: 1557-0100

Jennifer J. Johnson  
Secretary  
Board of Governors  
of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, N.W.  
Washington, DC 20551  
Attention: OMB No: 7100-0035

Federal Deposit Insurance Company  
Information Collection 3064-0017, FFIEC 009  
550 17<sup>th</sup> Street, N.W.  
Washington, DC 20429

Re: Joint Notice and Request for Comment on Country Exposure Report/Country  
Exposure Information Report (FFIEC 009 and FFIEC 009a Reports)

Ladies and Gentlemen:

The Clearing House Association L.L.C.<sup>1</sup> ("The Clearing House") appreciates the opportunity to comment on the proposed revisions to the Country Exposure Report (FFIEC 009) and the Country Exposure Information Report (FFIEC 009a) by the Office of the Comptroller of the Currency ("OCC"), the Board of Governors of the Federal Reserve System ("Board"), and the Federal Deposit Insurance Corporation ("FDIC"), collectively ("the Agencies"). We also

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<sup>1</sup> The member banks of The Clearing House are: Bank of America, National Association, The Bank of New York, Citibank, N.A., Deutsche Bank Trust Company Americas; HSBC Bank USA, National Association, JPMorgan Chase Bank; LaSalle Bank National Association; U.S. Bank National Association; Wachovia Bank, National Association; and Wells Fargo Bank, National Association.

wish to commend the agencies for addressing and providing us the opportunity to comment on the issues surrounding potential future credit exposure of derivative contracts, alternate risk measurement of resale agreements, repayment structures under structured transactions, and streamlining reporting to reduce reporting burden on the Quarterly Report of Assets and Liabilities of Large Foreign Offices of U.S. Banks (FR 2502q). Our comments on this proposal are set forth below.

### Reporting Burden

While we acknowledge the desire of the Agencies to harmonize U.S. data with data on cross-border exposures collected by other countries and disseminated by the Bank for International Settlements (BIS), we believe the increased data requests will substantially increase regulatory reporting burden on large financial institutions. Currently, BIS collects two sets of international banking data: Locational (host country) and Consolidated (home country). Therefore, in addition to filing in the U.S., a national bank with foreign branches and subsidiaries may be subject to reporting data to a foreign central banking authority in participating host countries. Until the format of the data collected is unified among the various central banks, the burden of reporting will be significantly increased, as the required data fields may vary significantly. Thus, the timing of changes to the FFIEC 009 and FFIEC 009a should be coordinated with the other major central banks. The Clearing House members request that if the U.S. reporting changes are implemented prior to many of the other foreign reporting agencies' changes, U.S. filing deadlines should be increased from forty-five days to sixty days to allow for the time needed for collection of additional data from foreign operations.

The Clearing House members believe the Agencies' reporting burden estimate of thirty hours per response for the current report is significantly understated. Our members estimate current reporting burden per response to range from sixty to one thousand hours. The proposed changes will further increase the burden hours for preparation and review of the FFIEC 009.

Furthermore, each additional data request requires a global effort for large international financial institutions that have operations in numerous countries. The new reporting format will require extensive programming changes and testing to deliver the same level of accuracy that our members currently deliver. Definitions of many data fields have been changed, and the proposed report will now contain 23 columns versus 21 columns for the existing report. When comparing the proposed reporting format with the current format for each transaction, the number of data cells in the proposed report may be 40%-50% higher. Consequently, the proposed deletion of certain columns does not offset reporting burden. Although increased estimates for start-up costs and costs of operation and maintenance are not readily available, based solely on added person-hours to change the mainframe programs, test outputs, and train staff on the requirements of the new forms, The Clearing House members believe that the cost would exceed \$100,000 for each of our members. Moreover, once the

start-up is complete, the due diligence required for assuring the quality of the future reports would significantly increase the hourly burden per response.

As mentioned above, while The Clearing House appreciates the Agencies' efforts to minimize reporting burden, The Clearing House members believe that several of the proposed reductions will not significantly affect reporting burden. Specifically, the Agencies are proposing to require banks to report maturity data only for immediate counterparty claims that fall in the one year or less category. In order to gain a sufficient comfort level in the one year or less category, many large institutions still will be required to collect full maturity data to ensure completeness. Thus, the proposed abbreviated collection of maturity data will not significantly reduce burden. Secondly, the proposal consolidates the reporting of both inward and outward risk transfer from bank, public and other to bank and non-bank. Since the bank, public, and other sector information is still required to be captured to report sector detail by immediate counterparty and by ultimate risk, burden will not be reduced. Additional discussions on sector data are provided later in this letter.

Considering recent reporting proposals to be implemented in 2005 (e.g., TIC-D, FR 2436, FR Y-12, Call Report Modernization, and FR Y-9C updates), in addition to the increased burden for the FFIEC 009 proposals, The Clearing House requests that the Agencies delay the implementation date of any proposed changes to September 2005 or later.

#### Proposed Revisions to the FFIEC Reporting Form

##### Foreign-office Claims on Local Residents Denominated in a Non-local Currency

A significant proposed revision to the first three columns of the current Form FFIEC 009 involves the inclusion of foreign-office claims on local residents denominated in a non-local currency. While convertibility risk is certainly a factor in evaluating and managing global risk, The Clearing House feels that the original and current intent of the Forms FFIEC 009 and 009a was to provide information on transfer risk and country risk, which are viewed separately from convertibility risk. Furthermore, by including certain foreign-office claims on local residents with country-to-country claims, the draft form appears to make the assumption that a foreign-currency claim on a local resident is virtually no different from a claim on a non-resident. The Clearing House feels that this assumption compromises the clarity of the draft reporting form considering that the Agencies do not intend to change the definitions of country-to-country versus local franchise exposures as detailed on the FFIEC 009a. Therefore, The Clearing House members oppose this revision as proposed and would recommend that this column be placed between proposed columns 5 (Foreign-Office Claims on Local Residents in Local Currency) and 6 (Outward Risk Transfer – Claims on Banks).

### Foreign-office Commitments to and Guarantees on Local Residents

Another significant proposal is the collection of foreign-office commitments to and guarantees on local residents. Several of The Clearing House members' foreign offices will be affected by this change as the practice is currently to report only commitments to local residents that will be funded with non-local country liabilities. The rationale is that only these commitments will create local franchise exposure when these commitments/guarantees are funded. In other words, when the commitment is funded, a local country asset and a local country liability will be created which would result in no local franchise exposure. Internal risk management, as well as the statistical releases on cross-border data, net these two items to calculate local franchise exposure. To that end, The Clearing House believes the current practice for commitments reflects the most appropriate measure of potential country risk exposures of U.S. banks to foreign residents and the proposal would overstate this risk. The Clearing House also feels that disclosing local commitments that do not result in exposure when funded will be misleading to users of the information, since a determination of actual country risk that will be created when the commitments are funded cannot be derived from the information disclosed. The Clearing House members oppose this proposed revision for the reasons stated above.

### Sector Reporting

As discussed earlier in the comments on reporting burden, The Clearing House members do not recognize a decrease in reporting burden from the proposal to consolidate inward and outward risk transfers into bank and non-bank sectors. In fact, requesting information in this format results in an increase in reporting burden since the categories for inward and outward risk would need to be combined and subsequently redistributed for ultimate risk.

In order to alleviate reporting burden as originally intended by the Agencies, The Clearing House recommends that the redistribution of risk be deleted since net risk distribution by sector may be easily calculated by computing the difference between immediate counterparty and ultimate risk basis by sector. Specifically, the calculation of net risk distribution could be computed by subtracting the sum of columns 1-3 from the sum of columns 10-12 under the proposed FFIEC 009 and, therefore, provide the net risk transfer to/from the banking sector.

### Clearing House Responses to Specific Questions Posed in the Proposal

#### Resale Agreements

The Clearing House supports the proposal to revise the FFIEC 009 instructions on risk redistributions with regard to the current treatment of resale agreements. The proposed revision would eliminate the risk transfer from the immediate counterparty under the resale agreement to the country of the issuer of the underlying security. Some of The Clearing House

members have measured country risk based on the domicile of the resale agreement counterparty as the country of ultimate risk for internal risk management purposes since the counterparty has the legal obligation for repayment and believe this presentation best reflects ultimate risk.

#### Repayment Structures

The Clearing House supports the proposed change for risk redistributions with regard to the treatment of repayment structures. Some of our members already have implemented a practice that has consistently involved evaluating transaction structures on a case-by-case basis to determine if the repayment structure does indeed shift the source of ultimate repayment in a cross-border event. A change to the instructions will more closely align external reporting of country risk exposures with that of internal risk management.

#### Collection of Data of Foreign-Office Liabilities by Country of Creditor's Residence

The Clearing House also strongly supports the addition of a column to collect foreign-office liabilities by country of residence of the creditor, facilitating a reduction of FR2502q reports submitted to the Federal Reserve Bank. The Clearing House would further recommend that offshore financial centers be incorporated into the FFIEC 009 as to eliminate the FR2502q in its entirety. The Clearing House would be very receptive to a meeting to discuss alternatives for incorporating offshore financial centers into the FFIEC 009. Greater efficiencies would be achieved for larger financial institutions, if they only had to provide country information of creditor/claim counterparties on one report versus multiple reports.

#### Potential Future Credit Exposures of Derivative Contracts

Before providing comment on the Agencies' question about possible reporting of potential future credit exposures on derivative contracts, our members are requesting additional information. Specifically, our members would like to know if this point addresses presettlement exposures ("PSE") or market risk exposure calculated under a value-at-risk (VAR) model. In either case, The Clearing House believes that reporting using the current mark-to-market (CMTM) calculation of foreign exchange and derivative products after application of FASB Interpretation No. 39, "Offsetting of Amounts Related to Certain Contracts" (FIN 39), netting is most appropriate. While PSE is believed to be the maximum exposure that the bank may incur from a foreign exchange and derivative contract, the CMTM is the actual country exposure at the reporting date. Furthermore, CMTM after FIN 39 netting is consistent with current balance sheet reporting.

October 18, 2004

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In summary, The Clearing House recognizes the need for harmonizing U.S. data with other data collections for the BIS, but feels the proposed changes create a significant increase in reporting burden for U.S. financial institutions as well as present possible misrepresentations of actual and contingent country risk. We are concerned that the Agencies have underestimated the burden for information collections. We are available to discuss options for enhancing the clarity of the information to be collected, and more specifically with the items discussed above. We feel that extending the implementation date of any proposed revisions combined with extending the filing period will help to reduce the initial reporting burden to implement the proposed changes.

Thank you for considering the concerns expressed in this letter. If you have any questions or are in need of any further information, please contact Norman R. Nelson at (212) 612-9205.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "J. Hunt", with a horizontal line extending from the bottom of the signature.